

TITLE 10. CALIFORNIA DEPARTMENT OF REAL ESTATE

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE REAL ESTATE COMMISSIONER

Jeff Davi, Real Estate Commissioner, proposes to adopt, amend and/or repeal the proposed regulations described below in Title 10, California Code of Regulations, after considering all comments, objections and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Commissioner proposes to adopt, amend and/or repeal sections 2716, 2716.1, 2790.1, 2790.1.5, 2810, and 2810.5 in Title 10 of the California Code of Regulations (CCR).

PUBLIC COMMENTS

The Commissioner or his representative will hold a public hearing starting at 10:00 AM, on March 8, 2007, at the Department of Real Estate Examination Room, located at 2200 X Street, Suite 120B, Sacramento, California. The Examination Room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony to the Commissioner.

This hearing will be a hearing under Sections 10226 and 11011 of the Business and Professions Code to determine whether license and subdivision fees lower than the statutory maximum should be prescribed.

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commissioner. The written comment period closes on March 8, 2007. All written comments must be received by 5:00 p.m. on that date at the Department's Sacramento Office as follows:

David B. Seals, Real Estate Counsel
Department of Real Estate
2201 Broadway
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789

Comments may be sent via electronic mail to regulations@dre.ca.gov or via fax to David B. Seals at (916) 227-9458.

AUTHORITY AND REFERENCE

The changes to the regulations are authorized by Business and Professions Code sections 10080, 10226, 10232, 10232.2, 10238, 11001, 11011 and 11281 to implement, interpret or make specific Business and Professions Code sections 10153.4, 10201, 10209.5, 10210, 10214.5, 10215, 11004.5, 11010, 11011, 11018.5, and 11232.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

SUMMARY OF EXISTING LAWS AND REGULATIONS

Sections 10201, 10209.5, 10210, 10214.5 and 10215 of the Business and Professions Code specify the maximum fees to be charged for the various licenses of real estate brokers and salespersons, for the renewal or late renewal of those licenses, and for examinations required to obtain the licenses. Section 2716 of the Regulations was originally adopted to comply with these statutes and specify the appropriate fees if these are less than the maximums allowed by the statutes. As a result of various factors, in 1997, Section 10226 of the Business and Professions Code was amended and Section 10226.5 was adopted to require the Department to assess the fees charged and revenues raised from those fees to determine if fees should be raised or lowered. Section 2716.1 was adopted in 2003 to stabilize the fees while maintaining compliance with the new and amended statutes. The changes proposed herein in Regulation Sections 2716 and 2716.1 are intended to implement, interpret or make specific the applicable laws and regulations cited hereinabove.

Section 11011 of the Business and Professions Code specifies the maximum filing fees in connection with applications to the Department relating to subdivisions. Section 2790.1 of the Regulations was originally adopted to comply with this statute and specify the appropriate fees if these are less than the maximums allowed by the statute. As a result of various factors, in 1997, Section 10226 of the Business and Professions Code was amended and Section 10226.5 was adopted to require the Department to assess the fees charged and revenues raised from those fees to determine if fees should be raised or lowered. Section 2790.1.5 was adopted in 2003 to stabilize the fees while maintaining compliance with the new and amended statutes. The changes proposed herein in Regulation Sections 2790.1 and 2790.1.5 are intended to implement, interpret or make specific the applicable laws and regulations cited hereinabove.

Section 11232 of the Business and Professions Code, part of the Vacation Ownership and Time-Share Act of 2004, specifies the maximum filing fees in connection with applications to the Department relating to time-share interests. Section 2810 of the Regulations was originally adopted to comply with this statute and specify the appropriate fees if these are less than the maximums allowed by the statute. After adopting Section 2810 it was discovered that some of the wording was ambiguous and needs to be clarified. As a result of various factors, in 1997, Section 10226 of the Business and Professions Code was amended and Section 10226.5 was adopted to require the Department to assess the fees charged and revenues raised from those fees to determine if fees should be raised or lowered. Section 2810.5 was adopted in 2005 to stabilize the fees while maintaining compliance with the new and amended statutes. The changes proposed herein in Regulation Sections 2810 and 2810.5 are intended to implement, interpret or make specific the applicable laws and regulations cited hereinabove.

SUMMARY OF THE EFFECT OF THE PROPOSED ACTION

REPEAL OF SECTION 2716

Repeals this section because it is obsolete if the amendments to Section 2716.1 are adopted.

AMENDMENT OF SECTION 2716.1

Removes the July 1, 2007 sunset provision to maintain fees, charged for the various licenses of real estate brokers and salespersons, for the renewal or late renewal of those licenses, and for examinations required to obtain the licenses, at 1982 levels.

REPEAL OF SECTION 2790.1

Repeals this section because it is obsolete if the amendments to Section 2790.1.5 are adopted.

AMENDMENT OF SECTION 2790.1.5

Removes the July 1, 2007 sunset provision to maintain filing fees, in connection with applications to the Department relating to subdivisions, at 1982 levels.

REPEAL OF SECTION 2810

Repeals this section because it is obsolete if the amendments to Section 2810.5 are adopted.

AMENDMENT OF SECTION 2810.5

Removes the July 1, 2007 sunset provision to maintain filing fees, in connection with applications to the Department relating to time-share interests, at present levels.

EFFECT ON SMALL BUSINESS

The proposed regulatory changes will not adversely affect small business because the changes either remove a sunset date (which has the effect of maintaining the status quo) or repeal a regulation which becomes obsolete because of the removal of the sunset date in a complementary regulation.

DISCLOSURES REGARDING THE PROPOSED ACTION

1. Plain English drafting: The Commissioner has confirmed that these regulations have been drafted in plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).
2. Mandate on local agencies and school districts: None.

3. Cost or savings to any state agency: None.
4. Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None.
5. Other non-discretionary cost or savings imposed upon local agencies: None.
6. Cost or savings in federal funding to the state: None.
7. The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
8. The Commissioner has made an initial determination that the adoption, amendment or repeal of these regulations will not have a significant state-wide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
9. Impact on jobs and business expansion, elimination or creation: The Commissioner has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs within the State of California nor will it significantly affect the creation of new businesses, the elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California.
10. Significant effect on housing costs: None.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Commissioner must determine that no reasonable alternative he considered or that has otherwise been identified and brought to his attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Commissioner invites interested persons to present statements or arguments with respect to alternatives to the proposed regulatory action during the written comment period.

CONTACT PERSON

Inquiries concerning the proposed action may be directed to:

David B. Seals, Real Estate Counsel
Department of Real Estate
2201 Broadway
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789

The backup contact person is:

James L. Beaver, Assistant Chief Counsel
Department of Real Estate
2201 Broadway
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789

The name of the person who can respond to questions concerning the substance of the proposed regulatory action is:

David B. Seals, Real Estate Counsel
Department of Real Estate
2201 Broadway
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789

Please direct requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to:

David B. Seals, Real Estate Counsel
Department of Real Estate
2201 Broadway
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS AND INTERNET SITE

The Commissioner will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at his office, at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. The final statement of reasons once it is prepared pursuant to Section 11346.9 of the Government Code will also be a part of the rulemaking file and available for inspection and copying as indicated above. Portions of the

rulemaking file and information regarding the Department are available through our website (www.dre.ca.gov). The express terms of the proposed action written in plain English are available from the agency contact person named in this notice. Copies may be obtained by contacting David B. Seals at the address and phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Real Estate Commissioner may, on his own motion or at the recommendation of any interested person made by written or oral comment, modify the Proposed Regulation and adopt the Regulation Change as modified if the change is determined to be one that the public could have reasonably anticipated from this Notice, the Informative Digest, and the Initial Statement of Reasons.

If the Commissioner decides to modify the Proposed Regulation change, the Department will make copies of the full text of the regulation, as originally proposed with the proposed modifications clearly indicated, available for not less than 15 days prior to adopting the modified regulation. Copies of the modified regulation will be mailed to all persons who have made written or oral comments concerning the Proposed Regulation and all persons who have requested notification of availability of the modifications.

Requests for modified regulations or other communications concerning the Proposed Regulation change should be addressed to the Department's contact person, David B. Seals, at the address and/or telephone number above.

COMPLIANCE WITH GOVERNMENT CODE §11346.4(A)(1) THROUGH (4)

The Department of Real Estate (the Department) has complied with Government Code §11346.4(a)(1) through (4) and Section 86, Title 10 of the California Code of Regulations, by mailing or delivering a copy of this Notice of Proposed Changes in the Regulations of the Real Estate Commissioner and of the Proposed Regulations with changes indicated in strikeout and underline to the Department's list of interested persons including:

1. Every person who has filed a Request for Notice of Regulatory Action with the Department.
2. The Director of the Department. (The Real Estate Commissioner and the Secretary of the Business, Transportation and Housing Agency).
3. A substantial number of real estate brokers. They are predominantly small businesses, some of which may be, or have been in the past, affected by our Proposed Regulation change. The Department has no way of knowing which are small businesses.
4. The California Association of Realtors, a real estate licensee trade organization and the California Building Industry Association, a homebuilders trade organization.
5. A substantial number of land developers. Not small businesses by definition, but some of which may be, or have been in the past, affected by our Proposed Regulations.

DATED: _____

Jeff Davi
Real Estate Commissioner